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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,027	08/29/2001	Lakshmi Kutty Cheeniyil	70006393-1	9525

7590 01/26/2007  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

VIG, NARESH

ART UNIT PAPER NUMBER

3629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/943,027

Applicant(s)

CHEENIYIL ET AL.

Examiner

Naresh Vig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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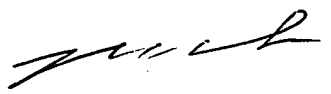
In view of the appeal brief filed on 11 September 2006, PROSECUTION IS  
HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the  
following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply  
under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed  
by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and  
appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth  
in 37 CFR 41.20 have been increased since they were previously paid, then appellant  
must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by  
signing below:

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
ART UNIT 3629

John Weiss  
SPE  
AU 3629

## **DETAILED ACTION**

Claims responded to in this office action is the current pending amended claimed filed 09 June 2005. Claims 1 – 10 are pending for examination

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3 and 8 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Tutorial: A Little Help With Alcatel-Lucent nmake" hereinafter known as ALU.

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Regarding claims 1 and 10, ALU teaches concept of executing a work flow (building of an application) in a WFMS (application building environment) having at least one process instance executing an original process definition (e.g. code, object file), and migrating the said process instance to a changed process definition (modified code, new object file). ALU teaches:

checking each process instance during the execution of the original process definition whether the process instance meets a migration condition (if the object file is up to date nmake reads it instead of makefile, otherwise nmake reads the makefile and builds a new objectfile) [ALU, page 16]; and

ALU does not specifically teach migrating each process instance during the execution of the original process definition to a modified process definition if the migration condition is met such that said process instance executes said changed process definition. However, it is old and known to one of ordinary skill in the art that in compilation, when a code is compiled, any modification in the include file are used by the compiler to generate a new running application (e.g .dll, .com, .exe file).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that during execution, compiler compiles new application using up to date code (i.e. code with any new modifications available at the time of compilation) to generate most current application.

defining an original process definition to be executed in a work flow system (makefile);

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starting execution of the process instance as per the original process definition (executing nmake);

defining a modified process definition (generating new makefile);

checking for each process instance whether a migration condition is met (obvious step in generating new makefile);

replacing the nodes of the original process definition in a running process instance satisfying the migration condition by the corresponding nodes of the modified process definition such that said running process instance executes said modified process definition (obvious during compilation).

Regarding claim 2, as responded to earlier, ALU teaches concept of:

defining a set of worst case migration points (makefile), and

migrating the process instance to the modified process definition, if its execution has not gone beyond anyone of said worst case migration points (nmake the new application).

Regarding claim 3, as responded to earlier, ALU teaches concept of:

reading a set of worst case migration points from an user input (makefile).

Regarding claim 8, as responded to earlier, ALU teaches concept of checking whether the node(s) in the original process definition being currently executed is/are also present in the modified process definition (generating new makefile).

Regarding claim 9, as responded to earlier, ALU teaches concept of checking whether a node in the original process definition being currently executed is also present in the modified process definition is repeated upon executing of each node(s) of the original process definition until the migration of said process instance is completed (nmake of an application).

***Allowable Subject Matter***

Claim 4 is deemed to be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 5 – 7 which claim dependency on claim 4 are also deemed to be allowable.

***Conclusion***

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

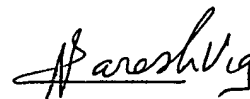
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Naresh Vig", with a stylized flourish at the end.

Naresh Vig  
Examiner  
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January 22, 2007